

**FILED**

**JUN 09 2006**

**NOT FOR PUBLICATION**

**UNITED STATES COURT OF APPEALS**

**CATHY A. CATTERSON, CLERK  
U.S. COURT OF APPEALS**

**FOR THE NINTH CIRCUIT**

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

ARTURO ALARCON-ESTEVEZ,

Defendant - Appellant.

No. 05-50735

D.C. No. CR-04-00221-CJC-1

MEMORANDUM<sup>\*</sup>

Appeal from the United States District Court  
for the Central District of California  
Cormac J. Carney, District Judge, Presiding

Submitted June 5, 2006<sup>\*\*</sup>

Before: CANBY, T.G. NELSON and KLEINFELD, Circuit Judges.

A review of the record and the opening brief indicates that the questions raised in this appeal are so insubstantial as not to require further argument. *See United States v. Hooton*, 693 F.2d 857, 858 (9th Cir. 1982) (per curiam) (stating

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<sup>\*</sup> This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

<sup>\*\*</sup> This panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

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standard). The Supreme Court's decision in *Almendarez-Torres v. United States*, 523 U.S. 224 (1998), remains binding on this court until the Supreme Court overrules it. *See United States v. Velasquez-Reyes*, 427 F.3d 1227, 1229 (9th Cir. 2005).

Further, appellant concedes his claim that the district court erred in denying his pretrial motion that sought to exclude, under the Confrontation Clause, warrants of deportation documenting his prior removals from this country is foreclosed by this court's decision in *United States v. Bahena-Cardenas*, 411 F.3d 1067, 1075 (9th Cir. 2005) (concluding that warrants of deportation are not "testimonial" in nature within the meaning of the Confrontation Clause).

Accordingly, we grant the government's motion for summary affirmance.

**AFFIRMED.**